

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application Serial No. 76/216,493  
Filed on February 27, 2001  
For the Mark SYNTEL  
Published in the Official Gazette on June 18, 2002



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SYNTELSOFT, INC.,

Opposer,

v.

SYNTEL, INC.,

Applicant.  
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03-08-200

U.S. Patent & TMO/c/TM

Opposition No. 91152909

Trademark Trial and Appeal Board  
Box TTAB NO FEE  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

**APPLICANT'S MOTION AND BRIEF IN SUPPORT OF  
MOTION FOR ENTRY OF JUDGMENT AND SUSPENSION OF PROCEEDINGS**

Applicant, Syntel, Inc. ("Syntel"), pursuant to Rule 2.132(a), 37 CFR § 2.132(a), hereby moves the Trademark Trial and Appeal Board for judgment dismissing Opposition No. 91152909 brought by Opposer, SyntelSoft, Inc. ("Opposer") as a result of Opposer's failure to prosecute this opposition.

Applicant also requests that, pursuant to Rule 2.127(d), 37 C.F.R. § 2.127(d), the Board suspend this proceeding pending determination of its Motion for Entry of Judgment as of the date of submission of this Motion. In the event the Board denies Applicant's Motion for

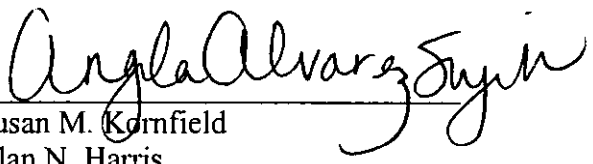
Based on the facts and the plain language of 37 CFR § 2.132(a), Applicant respectfully requests that the Board dismiss this Opposition with prejudice, enter judgment in its favor, and allow its Application for U.S. Service Mark Registration to proceed.

Respectfully submitted,

Bodman, Longley & Dahling LLP

Dated: March 8, 2004

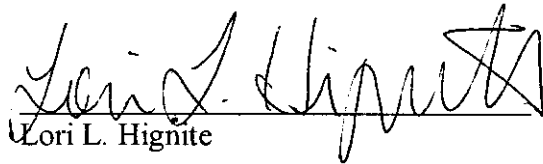
By: \_\_\_\_\_

  
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Angela Alvarez Sujek  
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(734) 761-3780

### **Certificate of Service**

I hereby certify that a copy of the foregoing Motion and Brief in Support of Motion for Entry of Judgment and Suspension of Proceedings was served on Opposer by depositing same with the United States Postal Service as Express Mail, postage prepaid, on March 8, 2004, in an envelope addressed to:

Jonathan Seder  
President, SyntelSoft Inc.  
P.O. Box 680  
Palo Alto, California 94301-1321

  
Lori L. Hignite

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U.S. Patent & TMO/c/TM Mail Rcpt Dt. #78

Opposition No. 91152909

**AFFIDAVIT OF ANGELA ALVAREZ SUJEK**

2. On February 26, 2004 I phoned Trademark Trial and Appeal Board (“TTAB”) Attorney David Mermelstein (“Mr. Mermelstein”) to verify that Opposer, SyntelSoft, Inc. had not submitted any testimony or evidence during its testimony period.

3. Mr. Mermelstein confirmed that no testimony or evidence was introduced by Opposer.

4. I inquired as to whether the TTAB would dismiss the Opposition or whether we needed to file a Motion to Dismiss for Opposer's failure to introduce any evidence in this matter.

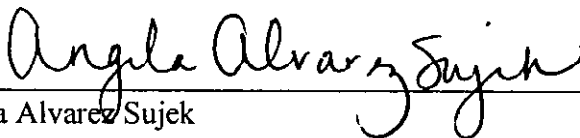
5. Mr. Mermelstein indicated that a Motion would have to be filed but expressed concern that Opposer possibly had not received a copy of the TTAB scheduling order.

6. Mr. Mermelstein initiated a further telephone call between himself, Mr. Seder (President of and representative for Opposer), and me.

7. During that telephone conference, Mr. Seder indicated that he did receive the TTAB's scheduling order and that he consciously chose not to submit testimony in this matter.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: March 8, 2004

  
Angela Alvarez Sujek

Judgment, Applicant requests that its testimony period and the remaining Scheduling Order dates be reset.

Applicant's Motion for Judgment under 37 CFR § 2.132(a) is supported by the following facts:

1. Opposer's testimony period began January 18, 2004 and closed on February 17, 2004.
2. During that time, Opposer failed to take any testimony or offer any evidence in this matter.
3. In a telephone conference on February 26, 2004 between Mr. Mermelstein (TTAB attorney), Ms. Sujek (attorney for Syntel), and Mr. Seder (President and representative of Opposer), Mr. Seder admitted that he was aware of the close of Opposer's testimony period and that he consciously chose not to submit any testimony/evidence in this matter. *See Sujek Affidavit*, Exhibit 1.

Opposer has failed to introduce any evidence supporting the allegations in its Notice of Opposition, including its alleged common law rights in the trademark SYNTEL for the goods/services identified in the Notice of Opposition, the scope of goods/services allegedly identified by the mark, the date of first use and continuous use of the mark in connection with goods/services, and the geographic scope of use. Moreover, Opposer has failed to introduce any evidence relating to a factors relevant to a likelihood of confusion analysis.

Under 37 CFR § 2.132(a), Opposer's failure to take any testimony or offer any other evidence warrants dismissal and entry of judgment. *See Hewlett-Packard Company v. Olympus Corporation*, 931 F.2d 1551 (Fed. Cir. 1991).